



MONTANA UNIVERSITY SYSTEM REQUEST FOR PROPOSAL (RFP)

RFP Title:

Making Opportunity Affordable Consultant #51020-09005

RFP Response Due Date and Time:

**Friday, February 22, 2009
5:00p.m., Local Time**

ISSUING AGENCY INFORMATION

**Commissioner of Higher Education
2500 East Broadway
PO Box 203201
Helena MT 59620-3201**

Issue Date:

**January 30,
2009**

Procurement Officer:

**Catherine M. Swift
Chief Legal Counsel
Montana University System
2500 East Broadway
PO Box 203201
Helena MT 59620-3201**

**Phone: (406) 444-6570
Fax: (406) 444-1469**

Website:

<http://mus.edu/twoyear/default.asp>

Return Proposal in PDF format to:

**Catherine M. Swift
Montana University System
cswift@montana.edu**

RFP SCHEDULE

RFP Issue Date.....	Friday, January 30, 2009
Deadline for Receipt of Written Questions.....	Friday, February 15, 2009
Deadline for Posting OCHE's Answers.....	Tuesday, February 19, 2009
RFP Response Due Date.....	Friday, February 22, 2009

SECTION 1: PROJECT OVERVIEW

1.0 PURPOSE OF PROJECT

The OFFICE OF THE MONTANA COMMISSIONER OF HIGHER EDUCATION, (hereinafter referred to as “OCHE”) is seeking an educational consultant to synthesize and interpret data to refine Montana’s two-year education action plan and develop key messages and mediums for promoting two-year education, especially the community college collaborative component.

1.1 CONTRACT TERM

The contract term will begin upon contract execution and end August 31, 2009.

1.2 PROJECT OVERVIEW

Montana has been chosen by the Lumina Foundation as one of 11 states to fund for planning that will make our higher education systems more productive and cost effective. Through this Lumina Foundation initiative, called “Making Opportunity Affordable” (MOA), the Montana University System will focus on increasing enrollments and degree completion at the system’s two-year colleges. Montana’s goals for achieving its two-year education vision are:

- A. **Coordinating** Montana’s “system” of two-year colleges sufficiently to promote them effectively to target populations (high school students, Native Americans, working adults, and underserved regions).
- B. **Promoting** two-year education in Montana through branding, marketing, and communication initiatives; affordability initiatives; and policy initiatives.
- C. **Extending** Montana’s two-year college mission to under-served populations and regions through a technology-enhanced collaboration of Montana’s two-year education providers.

Several activities proposed for Montana’s MOA Planning Year (November 2008 – August 2009) require the guidance of a consultant or consulting organization with expertise in education policy and strategic communication. Specifically, Montana will:

- Use its data warehouse and other sources to conduct a “student flow analysis” informing its decisions about the effectiveness of its policies and programs for admissions, placement, developmental services, retention, persistence, transfer, and two-year degree production.
- Conduct a “policy audit” to compile and analyze the effects of state law and policy on the two-year college enrollments, degree production, and cost-effectiveness.
- Conduct an appreciative inquiry/asset-mapping process to identify unique and common assets and develop a positive core for change.
- Conduct focus groups with key Montana constituencies to identify perceptions and misperceptions about Montana’s two-year colleges.
- Explore how to leverage collaboration and technology to extend two-year education opportunities to underserved regions and target populations in the state.
- Identify key strategic messages for the promotion of two-year education.
- Establish metrics for cost-effectiveness, productivity and accountability in two-year education.

Each of these activities will be more effectively conducted and the results more effectively communicated with the guidance of a consultant with expertise in education policy and strategic communication. Most important, Montana will rely on the consultant to synthesize the results of these activities as Montana positions itself to implement change in Fall 2009.

1.3 CONTRACTOR RESPONSIBILITIES

- Advise the Montana MOA project director on the activities described above as they are being planned and conducted;
- Participate in the appreciative inquiry conference of all Montana two-year institutions (a two-day session in late April 2009) and give a presentation on the need and the tools for achieving greater productivity in higher education;
- Help to identify experts in technology solutions and collaborative programming for the two-day summit in June 2009 devoted to developing a consortium of two-year colleges using technology to extend two-year programs and services across the state; facilitate the summit;
- Review the results of the focus groups and appreciative inquiry and provide a written report on key messages and strategies;
- Assist the MOA project director in the final synthesis of data and proposed strategies from all planning year activities;
- Attend a meeting of the Board of Regents in August 2009 to assist in the presentation of the synthesis and proposed strategies.
- Provide these services within agreed cost, exclusive of travel costs.

1.4 ADDITIONAL INFORMATION ON THE MOA PROJECT

Potential contractors are encouraged to review Montana's MOA Planning Year Proposal on the Montana website and the Two-Year Education link of the Montana University System website at <http://mus.edu/twoyear/default.asp>

SECTION 2: OFFEROR QUALIFICATIONS/INFORMATIONAL REQUIREMENTS

2.1 OFFEROR QUALIFICATIONS/INFORMATIONAL REQUIREMENTS

In order for OCHE to determine the capabilities of an Offeror to perform the services specified in § 3, the Offeror must respond to the following requests for information regarding its ability to meet OCHE's requirements. NOTE: Each item must be thoroughly addressed. Offerors taking exception to any listed requirements may be found nonresponsive or subject to point deductions.

2.1.1 References. Offeror shall provide a minimum of three references where the Offeror, preferably within the last five years, has successfully provided similar or related consultation services. At a minimum, the Offeror shall provide the name of the campus, foundation, or system to which services were provided, the location where the services were provided, contact person(s), customer's telephone number, a complete description of the service type and dates the services were provided. These references may be contacted to verify Offeror's ability to perform the contract. OCHE reserves the right to use any information or additional references deemed necessary to establish the ability of the Offeror to perform the conditions of the contract. Negative references may be grounds for proposal disqualification.

2.1.2 Consultant's Company Profile and Experience. Offeror shall provide the following:

- a. Experience/Past Projects. Offeror shall submit a narrative that provides information concerning Offeror's experience and past projects in educational consultation, particularly with higher education policy, innovation, and strategic communication.
- b. Education/Experience in Education. Consultant shall provide a professional vita, emphasizing education and professional experience in the area of coordinating activities, synthesizing multiple sources of information and data, and developing strategic communications in higher education.
- c. Contract Performance Consultants. A summary of qualifications, work experience, education, skills, etc., which emphasizes previous experience in this area shall be provided for all key personnel who will be involved with any aspects of the contract. Provide the proposed staffing pattern for the contract.

2.2 OCHE'S RIGHT TO INVESTIGATE AND REJECT

OCHE may make such investigations as deemed necessary to determine the ability of the Offeror to perform the services specified. OCHE reserves the right to reject any proposal if the evidence submitted by, or investigation of, the Offeror fails to satisfy OCHE that the Offeror is properly qualified to carry out the obligations of the contract. *This includes OCHE's ability to reject the proposal based on negative references.*

SECTION 3: EVALUATION CRITERIA

3.0 EVALUATION COMMITTEE

A committee of three professionals at OCHE will evaluate the eligible proposals. Each professional will have extensive experience in preparing and evaluating RFP responses of this type.

3.1 CRITERIA FOR EVALUATION

Offerors must fully describe their experience and qualifications to complete these requirements. Each Offeror will be evaluated on: (a) general expertise; (b) specific abilities related to the responsibilities the consultant would assume; and (c) cost. Cost estimates should be exclusive of travel and costs, as OCHE will pay the actual and reasonable costs of travel.

General areas of expertise:

- Broad expertise in states' approaches to higher education policy issues
- Expertise in higher education data analysis
- Successful completion of projects with similar scope
- Successful experience in developing strategic communications in higher education

Specific abilities Required:

- Ability to prepare and deliver public presentations in formal, facilitative, and interpersonal settings
- In-depth knowledge of "high access" technology solutions and consortium approaches to extending college access

- Ability to provide guidance on higher education policies, trends, productivity metrics, and innovations
- Ability to analyze and synthesize quantitative and quality data from a variety of sources

Cost

Responses must include a specific dollar bid and a detailed explanation of cost factors which make up that bid, including consultation fee, hours to be dedicated, and all other costs assigned to the proposal, including charges, if any, of assistants, equipment and supplies.

3.2. BASIS FOR EVALUATION

The initial evaluation will be based on the written materials provided by each Offeror. Interviews with the finalist will be conducted for the top-ranked Offeror or Offerors. Based on interview information, the committee will complete a final evaluation, using the same criteria listed in 3.1. (See Appendix A, Evaluation Rubric.)

SECTION 4: PROJECT INSTRUCTIONS

4.1 SUBMITTING A PROPOSAL

Offerors must submit **one proposal** to OCHE **electronically as a PDF file**. The costs for developing and delivering responses to this RFP and any subsequent presentations of the proposal as requested by OCHE are entirely the responsibility of the Offeror. OCHE has no responsibility for receipt of electronic submissions. It shall be the Offeror's sole risk to assure delivery of the RFP response to the designated office by the designated time. Late proposals will not be opened and may be returned to the Offeror at the expense of the Offeror or destroyed if requested. All materials submitted in response to this RFP become the property of OCHE and are to be appended to the RFP response.

4.2 SINGLE POINT OF CONTACT

Until an Offeror is selected and the selection is announced, Offerors may not communicate with any OCHE staff or officials regarding this procurement, except at the direction of the procurement officer. Any unauthorized contact may disqualify the Offeror from further consideration. Contact information for the single point of contact is as follows:

Procurement Officer: Catherine M. Swift, Montana University System
 Address: 2500 East Broadway; P. O. Box 203201, Helena, MT 59620-3201
 Phone numbers: (406) 444-6570; 444-0325
 Fax Number: (406) 444-1469
 Email address: cswift@montana.edu

4.3 REQUIRED REVIEW

Offerors should carefully review the information set out in this RFP and promptly notify the procurement officer in writing or via e-mail of any ambiguity, inconsistency, unduly restrictive specifications, or error which they discover upon examination of this RFP. OCHE will notify offerors of any changes to the RFP.

Offerors with questions or requiring clarification or interpretation of any section within this RFP must address these questions in writing or via e-mail to the procurement officer referenced above on or before **February 15, 2009**. Each question must provide clear reference to the section, page, and item in question. Questions received after the deadline may not be considered.

OCHE will provide an official written response by Tuesday, February 19, 2009 to all questions received on or before February 15, 2009. OCHE's response will be by written addendum to the RFP, posted as provided herein and emailed to all Offerors of record as of February 19, 2009.

4.4 GENERAL REQUIREMENTS

4.4.1 Acceptance of Contract Terms and Conditions. *By submitting a response to this RFP, Offeror agrees to acceptance of the standard contract as set out in Appendix B of this RFP.* Requests for additions or exceptions to the contract terms, including any necessary licenses, or any added provisions, must be submitted to the procurement officer referenced above by the date for receipt of written/e-mailed questions.

This RFP and any addenda, the Offeror's RFP response, with any amendments, and any a best and final offer, shall be included in any resulting contract. OCHE's contract, attached as Appendix B, contains the contract terms and conditions which will form the basis of any contract between OCHE and the highest scoring Offeror. In the event of a dispute as to the duties and responsibilities of the parties under this contract, the contract, along with any attachments prepared by OCHE, will govern in the same order of precedence as listed in the contract.

4.4.2 Understanding of Specifications and Requirements. By submitting a response to this RFP, Offeror agrees to an understanding of and compliance with the specifications and requirements described in this RFP.

SECTION 5: RFP STANDARD INFORMATION

5.1 RECEIPT OF PROPOSALS AND PUBLIC INSPECTION

5.1.1 Public Information. All information received in response to this RFP, including copyrighted material, is deemed public information and may be made available for public viewing and copying with the following three exceptions: (1) bona fide trade secrets meeting the requirements of the Uniform Trade Secrets Act, Title 30, chapter 14, part 4, MCA, that have been properly marked, separated, and documented; (2) matters involving individual safety as determined by OCHE; and (3) other constitutional protections. See § 18-4-304, MCA.

5.1.2 Procurement Officer Review of Proposals. Upon opening the proposals received in response to this RFP, the procurement officer in charge of the solicitation will review the proposals and separate out any information that meets the referenced exceptions in § 2.2.1 above, providing the following conditions have been met:

- Confidential information is clearly marked and separated from the rest of the proposal.
- The proposal does not contain confidential material in the cost or price section.
- An affidavit from an Offeror's legal counsel attesting to and explaining the validity of the trade secret claim as set out in Title 30, chapter 14, part 4, MCA, is attached to each proposal containing trade secrets. Counsel must use the State of Montana "Affidavit for Trade Secret

Confidentiality” form in requesting the trade secret claim. This affidavit form is available on the General Services Division's website at: <http://gsd.mt.gov/procurement/forms.asp> or by calling (406) 444-2575.

Information separated out under this process will be available for review only by the procurement officer, the evaluator or evaluation committee members, and limited other designees. Offerors must be prepared to pay all legal costs and fees associated with defending a claim for confidentiality in the event of a “right to know” (open records) request from another party.

5.2 CLASSIFICATION AND EVALUATION OF PROPOSALS

5.2.1 Evaluation of Proposals. An evaluator or evaluation committee will evaluate the remaining proposals and recommend whether to award the contract to the highest scoring Offeror or, if necessary, to seek discussion and negotiation or a best and final offer in order to determine the highest scoring Offeror. All responsive proposals will be evaluated based on stated evaluation criteria. In scoring against stated criteria, OCHE may consider such factors as accepted industry standards and a comparative evaluation of all other qualified RFP responses in terms of differing price, quality, and contractual factors. These scores will be used to determine the most advantageous offering to OCHE. If an evaluation committee meets to deliberate and evaluate the proposals, the public may attend and observe the evaluation committee deliberations.

5.2.2 Best and Final Offer. The Best and Final Offer is an option available to OCHE under the RFP process, which permits OCHE to request a best and final offer from one or more Offerors if additional information is required to make a final decision. Offerors may be contacted asking that they submit their best and final offer, which must include any and all discussed and/or negotiated changes. OCHE reserves the right to request a best and final offer for this RFP, if any, based on price/cost alone.

5.2.3 Evaluator and Evaluation Committee Recommendation for Contract Award. The evaluator/evaluation committee will provide a written recommendation for contract award to the procurement officer that contains the scores, justification, and rationale for the decision. The procurement officer will review the recommendation to ensure its compliance with the RFP process and criteria before concurring in the evaluator's/evaluation committee's recommendation of the responsive and responsible offeror that achieves the highest score and is, therefore, the most advantageous to OCHE.

5.2.4 Request for Documents Notice. Upon concurrence with the recommendation, the procurement officer will issue a “Request for Documents Notice” to the highest scoring Offeror to obtain the required documents/information, such as insurance documents, and any other necessary documents. Receipt of the “Request for Documents Notice” does not constitute a contract and **no** work may begin until a contract signed by all parties is in place. The procurement officer will notify all other offerors of OCHE's selection.

5.2.5 Contract Execution. Upon receipt of all required materials requested in the “Request for Documents Notice,” a formal contract utilizing the contract attached as Appendix B, as well as the highest scoring Offeror's response to the RFP, will be provided to the highest scoring offeror for signature. The highest scoring Offeror will be expected to accept and agree to all material requirements contained in the contract and set out in Appendix B of this RFP. If the highest scoring Offeror does not accept all material requirements, OCHE may move to the next highest scoring Offeror, or cancel the RFP. Work under the contract may begin when the contract is fully executed, i.e., when the contract is signed by all parties.

5.3 OCHE'S RIGHTS RESERVED

While OCHE has every intention to award a contract as a result of this RFP, issuance of the RFP in no way constitutes a commitment by the OCHE to award and execute a contract. Upon a determination such actions would be in its best interest, OCHE, in its sole discretion, reserves the right to:

- Cancel or terminate this RFP (§ 18-4-307, MCA);
- Reject any or all proposals received in response to this RFP (ARM 2.5.602);
- Waive any undesirable, inconsequential, or inconsistent provisions of this RFP which would not have significant impact on any proposal (ARM 2.5.505);
- Not award if it is in the best interest of OCHE not to proceed with contract execution (ARM 2.5.602); or
- If awarded, terminate any contract if OCHE determines adequate funds are not available (§ 18-4-313, MCA).

Attachments which are a part of this RFP:

Appendix A: Evaluation Rubric

Appendix B: Contract Form

Posted at:

www.qsd.mt.gov

<http://mus.edu/twoyear/default.asp>

APPENDIX A

Evaluation of Responses to the RFP for an MOA Project Consultant

- A. Evaluation Committee.** A committee of three professionals at OCHE will evaluate the eligible proposals. Each professional will have extensive experience in preparing and evaluating RFP responses of this type.
- B. Evaluation of Responses.** The committee will review the written information from each respondent and provide an initial independent evaluation using the following rubric.

Evaluation Rubric

Directions: Evaluate the respondent's general expertise, as well as the respondent's specific ability to assume the responsibilities associated with the consultation. Give a score ranging from 1 – 5, with 1 representing "extremely weak evidence of general expertise/specific ability" and 5 representing "extremely strong evidence of general expertise/specific ability." Whenever helpful, provide comments explaining your evaluation.

General Expertise Criteria	1	2	3	4	5	Comments
Broad expertise in states' approaches to higher education policy issues						
Expertise in higher education data analysis						
Successful completion of projects with similar scope						
Successful experience in developing strategic communications in higher education						
Specific Abilities Criteria	1	2	3	4	5	Comments
Ability to prepare and deliver public presentations in formal, facilitative, and interpersonal settings						
In-depth knowledge of "high access" technology solutions and consortium approaches to extending college access						
Ability to provide guidance on higher education policies, trends, productivity metrics, and innovations						
Ability to analyze and synthesize quantitative and quality data from a variety of sources						
Cost	1	2	3	4	4	Comments
Responses must include a specific dollar bid and a detailed explanation of cost factors which make up that bid, including consultation fee, hours to be dedicated, and all other costs assigned to the proposal, including charges, if any, of assistants, equipment and supplies						

- C. Ranking of Responses.** Scores for each respondent in each criterion area will be averaged. Respondents whose average score on any criterion is less than 2.0 will be eliminated from consideration. The remaining respondents will be ranked based on the highest total score. If one

APPENDIX A

respondent's score is substantially higher than other respondents' scores, that respondent will be considered the only candidate advancing to the final evaluation. If three respondents' scores are all relatively close, all three will be considered finalists. No more than three respondents will advance to the final evaluation.

- D. Finalist Interviews.** An interview or interviews will be conducted for the finalist or finalists, using a guided interview process using the evaluation rubric as the basis for the interview protocol.
- E. Final Evaluation.** When interviews have been completed, the evaluation committee will deliberate on the strengths and weaknesses of each finalist. Committee members will then independently evaluate each finalist, using the same evaluation rubric used for the initial evaluation. The finalist with the highest total score will be selected as the consultant.
- F. Reference Interview.** Prior to an offer being made, references will be made.

APPENDIX B

CONTRACT FOR CONSULTING SERVICES:
EDUCATION POLICY AND STRATEGIC COMMUNICATION CONSULTANT
OFFICE OF COMMISSIONER OF HIGHER EDUCATION
CONTRACT #: 51020-09003

1. PARTIES

THIS CONTRACT is entered into by and between the Office of the Commissioner of Higher Education for the State of Montana (hereinafter referred to as "OCHE" or "the State"), whose address and phone number are 2500 Broadway Avenue, PO Box 203201, Helena MT 59620-3201, (406) 444-6570 and _____, (hereinafter referred to as the "Contractor"), whose address and phone number are _____ and _____.

THE PARTIES AGREE AS FOLLOWS:

2. EFFECTIVE DATE, TERM, AND RENEWAL

This Agreement shall take effect upon contract execution and terminate upon completion of services, but in any event no later than August 30, 2009, unless terminated earlier in accordance with the terms of this contract.

3. CONTRACTED SERVICES

Contractor agrees to provide the services set forth in the related Request for Proposals, which, in general includes the provision of professional guidance and consultation with regard to the Montana University System's initiative, "Making Opportunity Affordable," to plan for a more productive and cost-effective higher education system through the development of strategies to enhance increased enrollments and degree completion at the State's two-year colleges.

4. CONSIDERATION/PAYMENT

In consideration for the performance of the contracted services, OCHE shall pay the Contractor the total amount of \$_____, plus pre-approved actual, reasonable travel expenses consistent with state law and Board of Regents policy. OCHE will set deadlines for delivery of the services by mutual agreement with the Contractor and may withhold payments if the Contractor has not performed in accordance with this contract and said benchmarks. Such withholding cannot be greater than the additional costs to OCHE caused by the lack of performance.

5. ACCESS AND RETENTION OF RECORDS

The Contractor agrees to provide the State and the Montana Legislative Auditor or their authorized agents access to any records necessary to determine contract compliance. § 18-1-118, MCA. The Contractor agrees to create and retain records supporting the contracted services for a period of three years after either the completion date of this contract or the conclusion of any claim, litigation, or exception relating to this contract taken by the State of Montana or a third party.

APPENDIX B

6. ASSIGNMENT, TRANSFER, AND SUBCONTRACTING

The Contractor shall not assign, transfer, or subcontract any portion of this contract without the express written consent of the State. § 18-4-141, MCA.

7. HOLD HARMLESS/INDEMNIFICATION

The Contractor agrees to protect, defend, and save OCHE and the State, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of the Contractor's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of the Contractor and/or its agents, employees, representatives, assigns, subcontractors, except the sole negligence of OCHE, under this Agreement.

8. REQUIRED INSURANCE

The Contractor shall maintain, for the duration of the contract, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability and liability for negligence, in an amount and nature generally held by educational consultants and satisfactory to OCHE and shall provide a certificate of insurance to OCHE prior to execution of this contract. The Contractor's insurance coverage shall be primary insurance with respect to OCHE, its officers, officials and employees with regard to claims against OCHE arising from the actions of the Contractor.

9. COMPLIANCE WITH WORKERS' COMPENSATION ACT

The Contractor is an independent contractor and neither contractor nor its employees are employees of the State of Montana. Contractors are required to comply with the provisions of the Montana Workers' Compensation Act while performing work for OCHE in accordance with §§ 39-71-401, 39-71-405, and 39-71-417, MCA. Proof of compliance must be in the form of a certificate of workers' compensation insurance, an independent contractor's exemption, or documentation of corporate officer status, valid for the entire term of this Agreement.

10. COMPLIANCE WITH LAWS

The Contractor must, in performance of work under this contract, fully comply with all applicable federal, state, and local laws, rules, and regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. In accordance with § 49-3-207, MCA, the Contractor agrees that the hiring of persons to perform the contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the contract.

11. CONTRACT TERMINATION

OCHE may, by written notice to the Contractor, terminate this contract without cause and the Contractor will be paid for work already performed.

APPENDIX B

12. LIAISON AND SERVICE OF NOTICES

All project management and coordination on behalf of OCHE shall be through single points of contact designated as contract liaisons. A change of liaison may be made by written notice to the liaison for the other party. The liaisons and their contact information are listed below:

Mary Sheehy Moe,
Deputy Commissioner
Office of the Commissioner
Of Higher Education
2500 East Broadway
PO Box 203201
Helena MT 59620-3201
(406) 444-6570
Fax: (406) 444-1469
mmoe@montana.edu

Contractor's Liaison:

13. MEETINGS

The Contractor is required to meet with OCHE's liaison or designated representatives to resolve technical, contractual or scheduling problems during the term of the contract or to discuss the progress made by Contractor in the performance of the work. Such meetings shall be at no additional cost to OCHE. Meetings will occur as problems arise and will be coordinated by OCHE. The Contractor will be given a minimum of three full working days notice of meeting date, time, and location. Face-to-face meetings are desired. However, at the Contractor's option and expense, a conference call meeting may be substituted. Consistent failure to participate in problem resolution, consecutive missed or rescheduled meetings, or failure to make a good faith effort to resolve problems, may result in termination of the contract.

14. INTELLECTUAL PROPERTY

Intellectual property first created by Contractor as a specifically-identified deliverable item under this Contract, whose creation and development was funded solely or in part by amounts received by Contractor from OCHE under this Contract for this specific purpose must be available to the State for royalty-free and nonexclusive use. Both parties shall have a royalty-free, nonexclusive, and irrevocable right to reproduce, publish or otherwise use and authorize others to use, copyrightable property created under this Contract.

15. CHOICE OF LAW AND VENUE

This Contract is governed by the laws of Montana. The parties agree that any litigation concerning this contract must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees.

16. SCOPE, AMENDMENT, AND INTERPRETATION

This contract consists of 4 numbered pages, any Attachments as required, RFP # 51020-09003, as amended, and the Contractor's RFP response, as amended. In the case of dispute or ambiguity about the minimum levels of performance by the Contractor, the order of precedence of document interpretation is in the same order as listed herein. These documents

APPENDIX B

contain the entire agreement of the Parties. Any enlargement, alteration or modification requires a written amendment signed by both Parties. If any provision of this Contract is found to be unlawful, the other provisions shall remain in full force and effect.

17. EXECUTION

The parties through their authorized agents have executed this Contract on the dates set out below.

Commissioner of Higher Education
2500 East Broadway
PO Box 203201
Helena MT 59620-3201
Federal ID # 810302402

BY: _____ BY: _____
Sheila M. Stearns (Name/Title)
Commissioner of Higher Education

DATE: _____ DATE: _____

Approved as to Legal Content and Form:

Catherine M. Swift Date
Legal Counsel

Mick Robinson Date
Associate Commissioner for Fiscal Affairs